

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 62nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: Chair Ken Peterson, on March 10, 2011 at 8:00 AM, in Room 137 Capitol

ROLL CALL

Members Present:

Rep. Ken Peterson, Chairman (R)
Rep. Krayton Kerns, Vice Chairman (R)
Rep. Liz Bangerter (R)
Rep. Robyn Driscoll (D)
Rep. Kris Hansen (R)
Rep. Bill Harris (R)
Rep. Cleve J. Loney (R)
Rep. Margaret (Margie) MacDonald (D)
Rep. Carolyn Pease-Lopez (D)
Rep. Joe Read (R)
Rep. Keith Regier (R)
Rep. Dan Skattum (R)
Rep. Bob Wagner (R)

Members Excused: Rep. Michael (Mike) More (R)

Members Absent: Rep. Diane Sands, Vice Chairman (D)
Rep. Ellie Boldman Hill (D)
Rep. David Howard (R)
Rep. Mike Menahan (D)
Rep. Jesse O'Hara (R)
Rep. Wendy Warburton (R)

Staff Present: Karen Armstrong, Committee Secretary
David Niss, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: SB 268, 3/4/2011; SB 238, 3/4/2011; SB 337, 3/4/2011

Executive Action: SB 58, SB 106, SB 217, SB 279, SB 304

HEARING ON SB 238

Opening Statement by Sponsor:

00:01:19 Sen. Anders Blewett (D), SD 11, opened the hearing on SB 238, Increase jurisdictional limit for justice, city, and small claims courts.

00:01:34 Vice Chairwoman Sands arrived.

00:01:43 Rep. Howard arrived.

00:01:50 Rep. O'Hara arrived

00:02:32 Rep. Hill arrived.

00:03:58 Rep. Warburton arrived.

Proponents' Testimony:

00:04:14 Joe Sullivan, President, State Bar of Montana

00:04:30 Rep. Menahan arrived.

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

00:06:19 Rep. Blewett

[EXHIBIT\(juh54a01\)](#)

HEARING ON SB 337

Opening Statement by Sponsor:

00:07:37 Sen. Anders Blewett (D), SD 11, opened the hearing on SB 268, Revise probate laws and laws relating to civil proceedings.

Proponents' Testimony:

00:09:51 Chuck Willey, Chairman, Business, Estates, Trust, Tax and Real Estate Section of the State Bar of Montana

00:15:19 Ward Shanahan, attorney

00:18:40 Beth Brenneman, attorney, Disability Rights of Montana

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

00:19:47 Chairman Peterson

00:20:43 Mr. Willey

00:20:47 Chairman Peterson

00:21:05 Mr. Willey

00:21:12 Chairman Peterson

00:21:22 Mr. Willey

00:21:48 Rep. More arrived.
00:24:08 Rep. Menahan
00:25:26 Mr. Willey
00:27:10 Rep. Menahan
00:27:34 Mr. Willey
00:27:57 Rep. Menahan
00:28:01 Mr. Willey
00:29:20 Rep. Menahan
00:30:02 Chairman Peterson

Closing by Sponsor:

00:30:11 Sen. Blewett

EXECUTIVE ACTION ON SB 304

00:31:26 **Motion:** Rep. Kerns moved that **SB 304 BE CONCURRED IN.**

Discussion:

00:31:52 Rep Sands
00:31:56 Chairman Peterson

00:32:34 **Vote:** Motion carried unanimously by voice vote. Rep. Menahan will carry the bill.

EXECUTIVE ACTION ON SB 217

00:33:00 **Motion:** Rep. Kerns moved that **SB 217 BE CONCURRED IN.**

00:33:08 Mr. Niss

00:34:00 **Motion/Vote:** Rep. K. Peterson moved that **SB 217 BE AMENDED.** Motion carried unanimously by voice vote of those present and voting.

EXHIBIT(juh54a02)

00:35:43 **Motion:** Rep. Kerns moved that **SB 217 BE CONCURRED IN AS AMENDED.**

Discussion:

00:35:58 Rep. Menahan
00:39:47 Rep. Howard
00:40:30 Rep. Harris
00:41:40 Rep. Bangerter
00:42:40 Chairman Peterson
00:43:14 Rep. Sands
00:43:50 Chairman Peterson
00:44:09 Rep. MacDonald
00:45:12 Chairman Peterson
00:45:25 Rep. Menahan
00:47:41 Rep. Harris

00:48:32 Rep. Wagner
00:49:10 Rep. Hill

00:51:46 **Vote:** Motion failed 9-11 by roll call vote with Rep. Bangerter, Rep. Hill, Rep. Kerns, Rep. MacDonald, Rep. Pease-Lopez, Rep. Peterson, Rep. Read, Rep. Sands and Rep. Skattum voting aye..

00:51:55 **Motion/Vote:** Rep. Kerns moved that **SB 217 BE TABLED AND THE VOTE REVERSED**. Motion carried unanimously by voice vote.

01:02:28 Meeting recessed until 9:00 am.
01:02:43 Meeting resumed with Vice Chairwoman Sands absent.

HEARING ON SB 268

Opening Statement by Sponsor:

01:08:26 Sen. Joe Balyeat (R), SD 34, opened the hearing on SB 268, Referendum to require election of supreme court justices from districts.

[EXHIBIT\(juh54a03\)](#)

[EXHIBIT\(juh54a04\)](#)

[EXHIBIT\(juh54a05\)](#)

[EXHIBIT\(juh54a06\)](#)

01:13:51 Vice Chairwoman Sands returned.

Proponents' Testimony:

01:16:28 Chuck Denowh, United Property Owners of Montana

[EXHIBIT\(juh54a07\)](#)

Opponents' Testimony:

01:20:21 Joe Sullivan, President, State Bar of Montana

01:25:50 John Alke, attorney, self

01:30:03 Rep. O'Hara exited.

01:31:44 Scott Crichton, Executive Director, American Civil Liberties Union of Montana (ACLU)

[EXHIBIT\(juh54a08\)](#)

01:35:17 Rep. Howard exited.

01:36:19 Robert Filipovich, self

[EXHIBIT\(juh54a09\)](#)

01:38:59 Rep. More exited.

01:42:56 Al Smith, Montana Trial Lawyers Association (MTLA)

01:44:18 Rep. More returned.

Informational Testimony: None

Questions from Committee Members and Responses:

01:46:56 Vice Chairman Kerns

01:47:06 Rep. Howard returned.

01:47:23 Sen. Balyeat

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| 01:47:34 | Rep. Kerns |
| 01:47:43 | Sen. Balyeat |
| 01:48:22 | Rep. Pease-Lopez exited. |
| 01:49:30 | Rep. Harris |
| 01:50:37 | Sen. Balyeat |
| 01:50:56 | Rep. Harris |
| 01:51:26 | Sen. Balyeat |
| 01:51:42 | Rep. Harris |
| 01:51:54 | Vice Chairwoman Sands |
| 01:52:18 | Sen. Balyeat |
| 01:52:37 | Vice Chairwoman Sands |
| 01:53:17 | Sen. Balyeat |
| 01:53:25 | Vice Chairwoman Sands |
| 01:53:37 | Sen. Balyeat |
| 01:53:44 | Rep. Pease-Lopez returned. |
| 01:54:47 | Sen. Balyeat |
| 01:55:30 | Vice Chairwoman Sands |
| 01:55:46 | Sen. Balyeat |
| 01:56:23 | Rep. Bangerter |
| 01:57:00 | Sen. Balyeat |
| 01:58:55 | Rep. Bangerter |
| 01:59:20 | Rep. Menahan |
| 01:59:38 | Mr. Denowh |
| 01:59:42 | Rep. Menahan |
| 01:59:48 | Mr. Denowh |
| 02:00:25 | Rep. Menahan |
| 02:00:52 | Mr. Denowh |
| 02:01:05 | Rep. O'Hara returned. |
| 02:01:17 | Rep. Menahan |
| 02:01:47 | Mr. Denowh |
| 02:02:12 | Rep. Menahan |
| 02:02:49 | Mr. Denowh |
| 02:03:09 | Rep. MacDonald |
| 02:04:52 | Sen. Balyeat |
| 02:06:56 | Rep. MacDonald |
| 02:07:24 | Rep. Hill |
| 02:09:20 | Mr. Sullivan |
| 02:10:41 | Rep. Hill |
| 02:10:54 | Mr. Sullivan |
| 02:11:45 | Rep. More |
| 02:12:49 | Mr. Sullivan |
| 02:12:55 | Rep. More |
| 02:15:12 | Mr. Sullivan |
| 02:16:04 | Rep. More |
| 02:16:39 | Mr. Smith |
| 02:16:45 | Vice Chairwoman Sands exited. |
| 02:17:01 | Rep. More |
| 02:17:17 | Rep. Warburton |
| 02:17:38 | Rep. Driscoll exited. |
| 02:18:01 | Sen. Balyeat |

02:18:35 Rep. Warburton
02:18:44 Sen. Balyeat
02:19:04 Rep. Read
02:20:49 Sen. Balyeat
02:21:04 Vice Chairwoman Sands returned.
02:22:03 Rep. Driscoll returned.
02:22:51 Rep. MacDonald
02:23:50 Mr. Sullivan
02:25:49 Rep. Wagner
02:26:48 Mr. Sullivan
02:28:06 Rep. Wagner
02:28:21 Chairman Peterson
02:28:30 Mr. Sullivan
02:28:35 Chairman Peterson
02:28:40 Mr. Sullivan
02:28:47 Chairman Peterson
02:29:01 Mr. Sullivan
02:29:06 Chairman Peterson
02:29:14 Mr. Sullivan
02:29:43 Chairman Peterson
02:30:14 Mr. Sullivan
02:30:29 Chairman Peterson
02:30:36 Mr. Sullivan
02:31:04 Chairman Peterson
02:31:21 Mr. Sullivan
02:31:25 Chairman Peterson
02:32:36 Mr. Sullivan
02:33:06 Rep. Hansen exited.
02:33:23 Rep. More

Closing by Sponsor:

02:33:47 Sen. Balyeat

02:38:04 Rep. Hansen returned.
02:41:20 Rep. Howard exited.
02:43:51 Rep. Howard returned.
02:44:08 Rep. O'Hara exited.

EXECUTIVE ACTION ON SB 58

02:45:02 **Motion:** Rep. Kerns moved that **SB 58 BE CONCURRED IN.**

Discussion:

02:45:41 Rep. Bangerter
02:46:48 Rep. Menahan
02:48:56 Rep. Loney
02:49:34 Chairman Peterson
02:49:49 Rep. Loney
02:50:19 Rep. Harris
02:51:10 Rep. Sands

02:52:15 Rep. Pease-Lopez
02:53:31 Rep. MacDonald
02:55:24 Rep. Hill
02:57:47 Rep. O'Hara returned.
02:57:58 Rep. Menahan
02:59:42 Chairman Peterson

03:00:10 **Vote:** Motion failed 6-14 by roll call vote with Rep. Driscoll, Rep. Hill, Rep. MacDonald, Rep. Pease-Lopez, Rep. Wagner and Rep. Warburton voting aye.

03:01:18 **Motion/Vote:** Rep. Kerns moved that **SB 58 BE TABLED AND THE VOTE REVERSED**. Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON SB 106

03:01:38 **Motion/Vote:** Rep. Kerns moved that **SB 106 BE CONCURRED IN**. Motion carried 14-6 by roll call vote with Rep. Driscoll, Rep. Hill, Rep. MacDonald, Rep. Menahan, Rep. Pease-Lopez and Rep. Sands voting no. Rep. Kerns will carry the bill.

EXECUTIVE ACTION ON SB 279

03:03:21 **Motion:** Rep. Kerns moved that **SB 279 BE CONCURRED IN**.

Discussion:

03:03:36 Rep. Driscoll
03:04:06 Rep. Regier

03:04:12 **Motion/Vote:** Rep. Regier moved that **SB 279 BE AMENDED**. Motion carried 15-5 by roll call vote with Rep. Driscoll, Rep. Hill, Rep. MacDonald, Rep. Pease-Lopez and Rep. Sands voting no.

EXHIBIT(juh54a10)

03:05:59 **Motion:** Rep. Kerns moved that **SB 279 BE CONCURRED IN AS AMENDED**.

Discussion:

03:06:22 Rep. Sands
03:06:29 Rep. Kerns
03:06:51 Rep. Sands
03:07:02 Rep. Kerns
03:07:29 Rep. Harris
03:08:04 Rep. Wagner
03:09:34 Rep. Howard
03:11:02 Rep. Pease-Lopez
03:12:24 Rep. Loney
03:12:29 Rep. Harris
03:14:28 Rep. Bangerter

03:15:45 Rep. MacDonald
03:16:50 Rep. Menahan
03:17:26 Rep. Regier
03:18:01 Chairman Peterson

03:18:06 **Vote:** Motion carried 15-5 by roll call vote with Rep. Driscoll, Rep. Hill,
Rep. MacDonald, Rep. Menahan and Rep. Sands voting no. Rep. Regier will
carry the bill.

ADJOURNMENT

03:19:34 Adjournment:

Karen Armstrong, Secretary

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Additional Documents:

EXHIBIT([juh54aad.pdf](#))